

# WALKER REALTY LLC

June 18, 2010

Roland Bartl, Planning Director  
Members of the Planning Board  
Town of Acton  
472 Main Street  
Acton, MA 01720

Re: 348-352 Main Street, Isaac Davis Way, Acton, MA  
Subdivision Plan, Michele Circle, Acton, MA

Dear Mr. Bartl and Members of the Board:

At the May 18, 2010 Planning Board Public Hearing relative to the above-referenced subdivision, the applicant, Walker Realty, LLC, was asked by the Board to consider reducing the width of the pavement of Michele Circle where said roadway intersected with Main Street. In doing so, the portion of Isaac Davis Way which intersects with Main Street would be slightly relocated. The applicant is willing to so reduce the width of the pavement at Michele and Main. The resulting question is the ability to relocate the easement /right of way known as Isaac Davis Way.

In 2004, the Massachusetts Supreme Court allowed for the unilateral relocation of an easement in M.P.M. Builders, LLC v. Dwyer, 442 Mass. 87, 809 N.E.2d 1053 (2004), so long as certain requirements of the Restatement Third of Servitudes were met. The court found that so long as the relocation: (1) did not lessen the utility of the easement; (2) did not increase the burdens on the owner of the easement; and (3) did not frustrate the purpose of the easement, the easement could be relocated. As applied to the subdivision in question, the relocation of the end of Isaac Davis Way would not lessen the utility of the easement (there would still be access/passage to Main Street from the homes on Isaac Davis Way), there would be no burden, financial, physical or otherwise to the homes on Isaac Davis Way, and lastly, the purpose of Isaac Davis Way (access and egress for the homeowners on Isaac Davis Way) would not be affected nor frustrated in any way.

Please contact me should you have any questions regarding this matter. Thank you.

Very truly yours,  
WALKER REALTY, LLC



Elizabeth A. Ahern  
Counsel